



More Frequently Asked Questions

December 6, 2005

- ***What has changed?***

On November 7, 2005 voters across the state of Washington approved Initiative 901, which prohibits smoking in all public places and places of employment. The initiative received a majority of 'yes' votes in every county in the state and passed statewide with a 63.2 percent 'yes' vote. The initiative modifies the state's Clean Indoor Air Act and is aimed at protecting employees and the public from the dangerous health effects of secondhand smoke, which include cancer, pneumonia, asthma, bronchitis, and heart disease. The new law goes into effect on December 8, 2005.

- ***What does the new law require?***

The new law requires the person in charge of any public place and/or place of employment to prohibit smoking in their facilities. The law requires "No Smoking" signs to be posted conspicuously at each building entrance. Retail stores and retail service establishments must also post "No Smoking" signs in prominent locations throughout the facility. In addition, smoking cannot be allowed within 25 feet from any entrances, exits, windows that open, and ventilation intakes.

- ***What is a "public place"?***

As defined by the law, a "public place" where smoking is prohibited is any part of any building or vehicle used by and open to the public, regardless of whether the building or vehicle is owned by a public or private entity. A "public place" does not include a private residence unless the private residence is used to provide licensed child care, foster care, adult care, or other similar social service care on the premises.

- ***What is a "place of employment"?***

As defined by the law, a "place of employment" where smoking is prohibited is any area under the control of a public or private employer that employees are required to pass through during the course of employment, including work areas, restrooms, conference and classrooms, break rooms and cafeterias, and other common areas. It also includes a distance of 25 feet from entrances, exits, windows that open, and ventilation intakes.

- ***Is smoking permitted in outdoor seating areas – for example at a restaurant or tavern?***

No. Smoking is prohibited in outdoor seating areas. While outdoor seating may be placed 25 feet from any door or window, it is still an area encompassed as a "place of employment" where employees are required to pass through during the course of employment, therefore smoking is prohibited in such areas.

- ***Does the law apply to private clubs such as yacht clubs, country clubs and fraternal organizations?***

It depends on the circumstances. When private clubs are operated privately, employ no staff, and are not open to the public, smoking may be permitted. However, if a

private club is used for a public function or the private club has employees, then smoking is prohibited would apply.

- ***Under the new law, can provisions be made for any employee or customer smoking areas?***

A limited use smoking-only area could be allowed only if it could meet all of the following requirements:

1. The area is located at least 25 feet from any entrances, exits, windows that open and ventilation intakes that serve an enclosed area of a public building or vehicle.
2. No service to the public is provided in the area.
3. No employee would ever be required to pass through the area during the course of employment.

- ***How does the law apply to smoking in hotels and motels?***

Smoking is prohibited in all areas of hotels and motels except that a hotel or motel may permit smoking in no more than 25 percent of the sleeping rooms that are rented to guests. While not specifically required by the initiative it is highly recommended that designated smoking rooms be clustered in a single area of the facility and be served with separate ventilation systems that exhaust directly to the outside.

- ***How does the law apply to tribal businesses?***

The law does not apply to a tribal business that is located on a tribal reservation or on tribal trust land. If the business is located outside of a tribal reservation or tribal trust land, then the prohibition against smoking does apply.

- ***What is the 25 foot 'rule' and can it be changed?***

The law states that smoking must be prohibited "within a presumptive reasonable distance of 25 feet from entrances, exits, windows that open and, ventilation intakes that serve an enclosed area to ensure that tobacco smoke does not enter". An owner or operator of a public place may seek to rebut the presumption that 25 feet is a reasonable minimum distance by making application to the director of the local health jurisdiction to change that restriction. It is required of the person making such an application to show clear and convincing evidence that, given the unique circumstances present at the facility, smoke will not enter the facility and therefore that public health and safety will be adequately protected by a lesser distance.

- ***Are there provisions for exemptions and waivers?***

There are no exemptions or waivers allowed to the main thrust of the law – all public places and places of employment are required to be smoke-free. As noted above, the law does allow for the director of a local health jurisdiction to consider a rebuttal to the 25-foot distance requirement for prohibiting smoking from any entryway, etc., and no other exception or exemption is provided for or allowed.

- ***Where can I get additional information?***

Additional information on the new law can be found at the Washington Tobacco Prevention and Control Program's website: <http://www.doh.wa.gov/Tobacco/secondhand/secondhand.htm>, or by contacting your local health jurisdiction.